REMARKS

Claims 1-2 and 4-40 are pending in the Application, all of which stand rejected by the Office Action mailed February 6, 2009. Claims 20 and 24 are amended by this response. Applicants respectfully submit no new matter is added by these amendments. Claims 1 and 20 are independent claims, while claims 2 and 4-19, and claims 21-40, depend either directly or indirectly from independent claims 1 and 20, respectively.

Applicants respectfully request reconsideration of the pending claims, in light of the following remarks.

Rejection of Claims Under 35 U.S.C. §103

Claims 1-2, 4-12, and 14-40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hayes, Jr. *et al.*, U.S. Patent No. 5,974,312 (hereinafter "Hayes") in view of Naito *et al.*, U.S. Patent Application Publication No. 2004/0153549 (hereinafter "Naito").[1] Claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hayes in view of Naito, and further in view of Marsh *et al.*, U.S. Patent Application Publication No. 2002/0073304 (hereinafter "Marsh").

Applicants begin by noting that the burden is on the Office Action to present a *prima facie* case of obviousness. (*See* MPEP §2142.) This burden may not be met by mere conclusory statements. (*See id.*) Instead, the analysis supporting a rejection should be made explicit, and there must be some articulated reasoning with some rational underpinning to support the conclusion of obviousness. (*See id.*) "The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s)

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[1] The Office Action states that claims 1-40 stand rejected as unpatentable over Hayes in view of Naito. However, claim 3 was cancelled by a previous response. Also, claim 13 is not treated in the Office Action as being rendered obvious by a combination of Hayes and Naito, but rather by a combination of Hayes, Naito, and Marsh. (*See* Office Action at p. 10-12.) Thus, Applicants understand the Office Action's rejections as set forth above.

why the claimed invention would have been obvious." (*Id.*) Applicants respectfully submit that, for at least the reasons discussed below, the Office Action does not present a *prima facie* case of obviousness for the pending claims. Further, Applicants respectfully submit that the asserted combinations do not teach, suggest, or otherwise render obvious the presently claimed subject matter, and that the pending claims are allowable over the asserted combinations. Applicants respectfully request the withdrawal of the present rejections and the allowance of the present claims.

Claims 1-2, 4-12, and 14-19 are allowable over the cited art.

Applicants begin by addressing the rejection of independent claim 1 (and dependent claims 2, 4-12, and 14-19 that depend from claim 1). Claim 1 recites a method of updating, the method comprising "receiving a notification in the electronic device; and determining the authenticity of the notification in the electronic device, wherein determining the authenticity of the notification comprises contacting a notification history server, the notification history server keeping a record of notifications sent to the electronic device." Applicants respectfully submit that the cited combination does not teach, suggest, or otherwise render obvious the subject matter claimed by claim 1; that the Office Action does not present a *prima facie* case of obviousness for claim 1 or its dependent claims; and that those claims are allowable.

The Office Action asserts that Hayes discloses "determining the authenticity of the notification in the electronic device, wherein determining the authenticity of the notification comprises contacting a notification history server, the notification history server keeping a record of notifications sent to the electronic device (see fig. 5A, which discloses authentication of the notification by phone; col. 2, lines 35-50, the wireless programmer stores the updated software, revision number of the updated software, and (at the end of the re-programming process) a list of electronic devices by serial number which have been successfully reprogrammed, and their corresponding software revision levels; col. 13, lines 55-60, which discloses that the wireless programmer 200 has been authenticated...; col. 15, lines 25-40)." (*See* Office Action at p. 3.) Applicants note that

the Office Action in the above quoted portion asserts that Hayes discloses "...contacting a notification history server...", but later recognizes that "[w]hat Hayes does not explicitly teach is a notification history server." (*See id.*) Therefore, as an initial matter, Applicants respectfully submit that Hayes cannot teach "...contacting a notification history server..." if it does not teach "a notification history server" in the first place. In any event, Applicants respectfully submit that Hayes does not teach, suggest, or otherwise render obvious "determining the authenticity of the notification in the electronic device, wherein determining the authenticity of the notification comprises contacting a notification history server, the notification history server keeping a record of notifications sent to the electronic device" as claimed.

For example, Applicants note that Fig. 5A does include "Authentication 460." However, the "Authentication 460" of Fig. 5A is very different from, and does not teach, "determining the authenticity of the notification in the electronic device..." as claimed. In describing "Authentication 460," Hayes states as follows:

> 2. Authentication Channel.
>
> The Authentication Channel 460 is a two-way communication channel which provides means for the devices 100 and the wireless programmer 200 to exchange authentication information. Data flow on the Authentication Channel 460 is illustrated in FIG. 5C, and is explained in greater detail below.

(Hayes, 10:3-9.) Such a disclosure relates to the authentication of **devices** (devices 100 and wireless programmer 200), and is silent with respect to authentication of **a notification**. This is further confirmed by an examination of Fig. 5C, which illustrates authentication between a "wireless programmer" and a "Cellular Phone 1" using an "ESN." Such use of an electronic serial number for authentication of two devices is quite different from, and does not teach, determining the authenticity of a notification as claimed. Moreover, it is the "wireless programmer 200" of Hayes that sends the "sequential notification frames." (*See* Hayes at 9:59.) Thus, the "authentication" disclosed in Hayes is merely the authentication of the device that sends the

"notification" of Hayes, and not the authentication of a notification. Applicants respectfully submit that Fig. 5A of Hayes and its accompanying description are silent with respect to contacting a server as claimed, or with respect to authenticating a notification itself, let alone to teaching "determining...." as claimed.

The next portion of Hayes cited by the Office Action is Col. 2, lines 35-50. That portion reads as follows:

> A second device, referred to herein as a "wireless programmer" or "programming unit", generates a signal for re-programming the memory of an electronic device, and receives and processes confirmation signals from the electronic device. The wireless programmer (which may be a specially configured personal computer) includes a central processing unit, memory, RF transceiver, antenna and various data input/output means (such as a keypad, monitor, modem, touch screen display, mouse, bar code reader, etc.). The transceiver is used to establish a two-way data link with the electronic device to be programmed. The wireless programmer stores the updated software, revision number of the updated software, and (at the end of the re-programming process) a list of electronic devices by serial number which have been successfully re-programmed, and their corresponding software revision levels.

Applicants respectfully submit that is portion of Hayes is also silent with respect to **determining the authenticity of the notification** in the electronic device, wherein determining the authenticity of the notification comprises **contacting a notification history server** as claimed. Further, Applicants also respectfully submit that this portion of Hayes similarly fails to teach, suggest, or otherwise render obvious "the notification history server keeping a record of notifications sent to the electronic device" as claimed. Applicant notes that this portion of Hayes does mention storing "updated software," "revision number of the updated software," and "a list of electronic devices by serial number which have been successfully re-programmed." However, storage of such items is quite different from the presently claimed subject matter, which relates to, *inter alia*, a record of notifications sent to the device. For example, "updated software" and the "revision number of the updated software," as well as "a list of electronic

devices...which have been successfully re-programmed" would, by definition, be saved **after** an update or "re-programm[ing]" of software and/or devices. In contrast, the presently claimed subject matter relates to **determining the authenticity of a notification** including contacting a notification history server that keeps **a record of notifications sent to the electronic device**. There would not appear to be any purpose to contacting a server storing the items listed in Hayes to authenticate a notification, as the items stored in Hayes would only exist **after** the update had already been performed, thereby rendering any purported "authentication" of a notification moot. The Office Action provides no explanation or rationale for how the storage of software that has already been updated or devices that have already been re-programmed could teach, suggest, or otherwise render obvious keeping a record of notifications sent to the electronic device to allow an electronic device to contact a notification history server to determine the authenticity of a notification.

Applicants next address Col. 13, lines 55-60 of Hayes, which reads as follows:

> When the authentication string is received by the device 100, the authentication result R is compared to the authentication result computed by the device 100. If the two numbers match, **the wireless programmer 200 has been authenticated** and the device 100 proceeds with the memory update process by tuning to the Data Channel.

(emphasis added.) Again, this portion merely relates to authentication of devices ("the wireless programmer 200 has been authenticated), and does not teach, suggest, or otherwise render obvious anything with respect to authentication of a **notification**, let alone "determining the authenticity of the notification...' as claimed.

Moving on to the next portion of Hayes relied upon by the Office Action, namely Col. 15, lines 25-40, that portion reads as follows:

> In step 822, a test is made to determine if the maximum number of attempts to authenticate have been exceeded. If not, the program returns to step 816 to make another attempt. If a previous authentication attempt failed due to a data collision with another device 100 (i.e. two or

more devices 100 have sent data on the Authentication channel 460 at the same time), the random delay caused by the random timer in step 816 will tend to prevent additional collisions with the same devices 100. If the maximum number of attempts has been exceeded, the device 100 turns itself off in step 824.

In step 823, the device 100 checks if the received authentication result R matches its computed authentication result. If not, the phone turns itself off in step 824. If the authentication results match, **the wireless programmer has been authenticated** and the program proceeds to point B in FIG. 8B1.

(emphasis added.) Once again, this portion of Hayes relates to the "authentication" of a "wireless programmer" and is similarly silent with respect to the authentication of a notification, let alone to determining the authenticity of a notification, further still let alone to determining the authenticity of a notification including contacting a notification history server that keeps a record of notifications sent to the electronic device as claimed.

As discussed above, Applicants respectfully submit the disclosure of Hayes fails to teach, suggest, or otherwise render obvious either contacting a notification history server to determine the authenticity of a notification, or a notification history server that keeps a record of notifications sent to the electronic device, let alone "determining the authenticity of the notification in the electronic device..." as fully set forth in claim 1. Because of at least these shortcomings in the disclosure of Hayes, Applicants respectfully submit that the Office Action fails to present a *prima facie* case of obviousness for claim 1 or any claim that depends therefrom.

Moving on to the Office Action's assertions regarding Naito, Applicants appreciate the Office Action's recognition that Hayes does not teach a notification history server. (*See* Office Action at p. 3.) However, Applicants respectfully disagree with the Office Action's assertion that "Naito discloses a notification history server (0126)." (*See id.*) Applicants respectfully submit that Naito does not disclose a notification history server as claimed, and that Naito does not remedy the shortcomings

of Hayes discussed above, including failing to teach, suggest, or otherwise render obvious determining the authenticity of a notification received in an electronic device.

In any event, Applicants note at this time that the notification history server, as expressly recited in claim 1, "keep[s] a record of notifications sent to the electronic device." The Office Action cites to Naito at paragraph 126 as disclosing a notification history server. That portion of Naito reads as follows:

> [0126] In addition, it is characterized in that, in the case where information indicating the state of accessing the assignment notification server is transmitted based on the version information of built-in software which is installed the communication adapter, and response information thereto is received, information indicating that a new version of the built-in software may be obtained from the administrator side of the internet telephone system based on the response information may be included. Then, the communication adapter, upon reception of the response information, may set up so that predetermined updating processing of the built-in software of the communication adapter may be started.

Applicants respectfully submit that the "**assignment** notification server" of Naito does not disclose a "notification **history** server" as claimed. This is even more so in light of claim 1's explicit requirement that the claimed "notification history server keep[s] a record of notifications sent to the electronic device." This shortcoming in the teaching of Naito is confirmed by an examination of Naito's later discussion of the "assignment notification server."

> [0265] A reference numeral 410 denotes an assignment notification server. The assignment notification server 410 notifies the communication adapter 110, 120 of the session managing server 210, 220 which manages the communication adapter 110, 120 upon request from the communication adapter 110, 12, respectively.

(Naito, ¶ [0265]). Applicants respectfully submit that such an assignment notification server is quite different from the notification history server as claimed. Applicants further respectfully submit that a teaching of a server that "notifies the communication

adapter 110, 120 of the session managing server 210, 220 which manages the communication adapter 110, 120..." is silent with respect to a notification history server, let alone teaching, suggesting, or otherwise rendering obvious a notification history server that keeps a record of notifications sent to the electronic device as claimed. This is even more so in light of claim 1's requirement that the authenticity of a notification received in an electronic device is determined by contacting the notification history server.

Elsewhere in its disclosure, Naito also describes its "assignment notification server" as follows:

> [0269] The assignment notification server 410 in FIG. 2 and FIG. 28 manages the session managing servers to which the telephone adapters are assigned. The assignment notification server, when the power of the telephone adapter is turned ON, receives an inquiry from a telephone adapter about a session managing server to which the telephone adapter itself is assigned. Then, the assignment notification server, in response to the inquiry, notifies the telephone adapter as the inquiring source of the session managing server to which the telephone adapter is assigned. The process of receiving the inquiry from the telephone adapter for the session managing server to which the telephone adapter itself is assigned, when the power is turned ON, is an "assigned session managing server searching process". The session managing server is provided with a data file storing information indicating which session managing server manages which telephone adapter is stored. In the "assigned session managing server searching process", by using data in the data file storing the information indicating which session managing server manages which telephone adapter is stored in a memory when the power is turned ON, a corresponding session managing server is searched for in response to the inquiry from the telephone adapter, and a response is sent with a search result to the telephone adapter as the source of inquiry. According to the first embodiment, in order to share the processing load for each session managing server, a plural number of session managing servers are installed, and the assignment notification server notifies each telephone adapter of the session managing server which manages the telephone

        adapter. The data file stated above is to be added with data
or updated manually by the administrator. For that reason,
in the case of adding data to or updating the data file, the
assigned session managing server searching process is
suspended, and then restarted after the data is updates.
FIG. 3 shows an environment of the assignment notification
server mentioned above.

(Naito, ¶ [0269]). Applicants respectfully submit that the claimed notification history server (which keeps a record of notifications sent to the electronic device) is quite different, and patentably distinct, from such an "assignment notification server" that "manages the session managing servers to which the telephone adapters are assigned." Such assigning of telephone adapters to session managing servers is silent with respect to a notification history server keeping a record of notifications sent to the electronic device as claimed. For at least the above discussed reasons, Applicants respectfully submit that Naito fails to disclose a "notification history server" as claimed. In any event, Applicants further respectfully submit that Naito fails to remedy the other shortcomings in Hayes previously discussed. Applicants respectfully submit that the Office Action does not present a *prima facie* case of obviousness for claim 1 or its dependent claims; that the cited art, either alone or in combination, does not teach, suggest, or otherwise render obvious those claims; and that those claims are allowable.

Claims 21-40 are allowable over the cited art.

        Turning now to independent claim 20 and its dependent claims 21-40, Applicants note that independent claim 20 has been amended to incorporate a limitation previously found in dependent claim 24, namely that "the electronic device is adapted to determine the authenticity of the notifications by contacting the notification history server." Applicants further note that the Office Action relies upon the same explanation to reject claim 20 as it relies upon in connection with its rejection of claim 1 (*see* Office Action at p. 2-3), and the same portion of Naito to reject claim 24 that it relies upon in connection with claim 1 (*see* Office Action at p. 4).

As an initial matter, Applicants note that claim 20 as originally filed recites a mobile services network comprising, *inter alia,* "a **notification history server** operatively connected to the management server, the **notification history server comprising a record of authentic notifications sent to the at least one electronic device**." For at least the reasons discussed above in connection with claim 1, Applicants respectfully submit that Hayes and Naito, either alone or in combination, fail to teach, suggest, or otherwise render obvious a notification history server as claimed and that claim 20 and its dependent claims are allowable for at least that reason.

In any event, as mentioned above, claim 20 has been amended to recite "the electronic device is adapted to determine the authenticity of the notifications by contacting the notification history server." As discussed above in connection with claim 1, Applicants respectfully submit that neither Hayes nor Naito, either alone or in combination, teaches, suggests, or otherwise render obvious an electronic device adapted to determine the authenticity of the **notifications** by **contacting the notification history server** as claimed. For at least the above reasons, Applicants respectfully submit that the cited art, either or in combination, does not render obvious claim 20 or any of its dependent claims, and that those claims are allowable.

Claim 13 is allowable over the cited art.

Claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Hayes in view of Naito, and further in view of Marsh. Claim 13 depends from claim 1. The Office Action does not assert Marsh as teaching the above discussed shortcomings in the teachings of Hayes and Naito, and Applicants respectfully submit that Marsh does not remedy those deficiencies in the teachings of the previously discussed art. Therefore, Applicants respectfully submit that the proposed combination, either alone or in combination, does not teach, suggest, or otherwise render obvious the subject matter claimed by claim 13, and that claim 13 is allowable, for at least the reasons discussed above in connection with claim 1.

Conclusion

In general, the Office Action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

Applicants believe that all of the pending claims are in condition for allowance. Should the Examiner disagree or have any questions regarding this submission, Applicants invite the Examiner to contact the undersigned at (312) 775-8000 for an interview.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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